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Chairman: Ms. Wensley ..... (Australia)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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The meeting was called to order at 10.05 a.m.

Agenda item 142: Financing of the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the Former Yugoslavia since 1991 (*continued*)

Agenda item 143: Financing of the International Criminal Tribunal for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States between 1 January and 31 December 1994 (*continued*)

Report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/54/634, A/54/850 and A/54/874)

1. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the Advisory Committee's report (A/54/874) on the note by the Secretary-General containing comments on the report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/54/850), said that paragraphs 1 to 3 contained background information, while paragraphs 4 to 14 contained the Advisory Committee's comments and recommendations. Both the report of the Expert Group (A/54/634) and the note by the Secretary-General would be discussed in the Fifth Committee, the plenary Assembly and the Security Council. The comments of the Tribunals on the Expert Group's report were summarized in the annexes to the note by the Secretary-General.

2. Instead of commenting or taking a position on each of the Expert Group's recommendations or each of the comments thereon contained in the annexes to the note by the Secretary-General, the Advisory Committee had set out what it considered to be the most appropriate procedure in respect of those two documents. Paragraph 6 of the Advisory Committee's report indicated that 16 of the Expert Group's recommendations had already been put into practice, and recommended that the review of the remaining recommendations should be completed expeditiously. Since the Expert Group's report dealt with two independent Tribunals that operated in different environments and with different practices, it would be inappropriate to call for complete harmonization of the application of the Expert Group's recommendations.

3. The Advisory Committee's views on recommendations 20, 21, 43 and 45, which related to issues of particular concern to the Security Council, were summarized in paragraphs 9, 12 and 13 of its report. Paragraph 12 contained its recommendation concerning the Secretary-General's request for guidance in the preparation of the Tribunals' budgets for 2001. Paragraphs 5, 9 and 11 indicated the procedure to be followed for those recommendations of the Expert Group that dealt with management, personnel and budgetary issues. In paragraph 14, the Advisory Committee recommended that the Secretary-General should submit to the General Assembly, at its fifty-fifth and fifty-sixth sessions, reports on the Tribunals' review of recommendations not yet put into practice and on the results of the implementation of the Expert Group's recommendations.

4. With respect to the action to be taken by the Fifth Committee, the Advisory Committee recommended that the General Assembly should acknowledge receipt with appreciation of the Expert Group's report. That wording had been chosen deliberately. However, the Fifth Committee might wish to consider recommending other options to the Assembly, such as that it should take note with appreciation of the report of the Expert Group and of the work done thus far by the Tribunals on the related recommendations of the Expert Group; take note of the note thereon by the Secretary-General; and concur with the comments and recommendations of the Advisory Committee.

5. **Mr. Ramos** (Portugal), speaking on behalf of the European Union, the associated countries Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, and, in addition, Liechtenstein and Norway, said that the European Union regretted that once again the late submission of documentation had hampered the Committee's work. He requested an explanation.

6. The strong support of the European Union for the work of the Tribunals had been well established. Its

concerns about their functioning were driven by the desire to make the best possible use of their resources. Both Tribunals had been burdened by the slow pace of trials and a worrying length of detention time, and, as the Advisory Committee had observed, increased resources alone would not remedy that situation.

7. The European Union recognized the positive developments taking place in the administration of the Tribunals, but in the light of the reports of the Expert Group and the Office of Internal Oversight Services (OIOS), it would welcome clarification from the Secretariat regarding which areas needed improvement and what steps were being taken.

8. The Expert Group had noted that court management was the nerve centre of the Tribunals, and, concerning the International Criminal Tribunal for Rwanda in particular, that the administration of the courts was not entirely satisfactory. The steps taken to address that issue were therefore welcome. The European Union remained concerned about such administrative functions as financial control, accountability and procurement. The issue of the remuneration levels of defence counsel also deserved careful attention. It would also be of interest to know what steps were envisaged to speed up trials. The European Union shared the opinion of the Expert Group that the Tribunals should continue their outreach programmes.

9. The European Union took note of the recommendations of the Expert Group concerning administrative arrangements. Although it shared the view of the Secretary-General that the creation of parallel administrative structures in the Office of the Prosecutor and the Chambers was unnecessary, it believed that it was important for all organs of the Tribunals to be fully involved in the budget process. It also endorsed the comments of the Secretary-General on the OIOS recommendation for a clear statement of the role, scope and reporting relationship between the organs. The European Union stressed the importance of recruiting high quality staff and of training and evaluating staff properly. It was also crucial to explore the use of such modern technology as videoconferencing. In relation to translation, it was essential for resources to be targeted properly in order to ensure that priorities in the translation of documents were adhered to.

10. The European Union was grateful to the staff of the Tribunals for their efforts to fulfil their important mandates despite difficulties. It concurred with the Advisory Committee, however, that before requesting additional resources, the Tribunals should fully and effectively use existing resources. It further agreed that the Board of Auditors and OIOS should continue to pay particular attention to management issues.

11. **Mr. Udegbunam** (Nigeria) said that the establishment of the two Tribunals was a robust response by the international community to violations of civilized standards of morality. His delegation commended the achievements of the Tribunals and supported their efforts to meet the challenges identified in the report of the Expert Group. In particular, it welcomed the success of the International Criminal Tribunal for Rwanda in apprehending and bringing to trial the senior government officials allegedly responsible for the 1994 genocide. That achievement was particularly significant because Security Council objectives would not be fulfilled if only low-level officials, and not the senior military and civilian leadership, were brought to trial. His delegation was pleased with recent efforts by the International Tribunal for the Former Yugoslavia to modify its prosecution policy along those lines.

12. His delegation was concerned, however, about the pace of trials at both Tribunals. Although judicial processes did not always lend themselves to speedy resolution, the Tribunals could do better. His delegation concurred with the views of the Expert Group that the responsibility for prolonged trials rested predominantly with the judges, and had noted the efforts under way by judges of both Tribunals to put an end to the practices which caused the delays and to create conditions for more expeditious proceedings through changes to the Rules of Procedure and Evidence.

13. His delegation commended the ground-breaking work of the Rwanda Tribunal, which had set important precedents in the adjudication and punishment of the crime of genocide, and the progressive improvements in its administration and judicial support systems which had facilitated those achievements. It was also noteworthy that its management had introduced innovations in managerial and financial accountability and transparency by instituting additional guidelines for utilization of the Trust Fund.

14. His delegation strongly supported the views of the Secretary-General regarding the structure of the Tribunals and the functions of their organs, as contained in document A/54/850. The statutes assigning specific functions to each arm of the Tribunals should be adhered to in the interest of efficiency and accountability.

15. Finally, his delegation expressed concern about the rising cost of defence counsel. It welcomed the measures taken by the Registrars of the two Tribunals to monitor and control defence costs. In that connection his delegation was troubled by the reference in the report of the Expert Group to fee-splitting arrangements between some defence attorneys and detainees at the International Tribunal for the Former Yugoslavia. Such a situation would amount to professional misconduct. He called on the Secretary-General to investigate the allegation thoroughly, as it had serious implications for the use of resources provided by Member States for the functioning of the Tribunal.

16. **Mr. Munyakazi** (Rwanda) said that the International Criminal Tribunal for Rwanda had encountered difficulties as a result of its internal administration and management and because of external factors inherent in its operational conditions, discouraging the hopes of Rwandan citizens for justice. However, improvements had taken place over the past 3 years, in particular the reforms made by the Registrar.

17. His delegation was aware of the special circumstances and working conditions in both Arusha and Kigali, and believed that the Rwanda Tribunal should receive the same level of resources and assistance as the International Tribunal for the Former Yugoslavia in The Hague in order to avoid a double standard. A double standard was also reflected in the pattern of criticism directed at the Rwanda Tribunal, since the Yugoslavia Tribunal did not receive the same degree of scrutiny.

18. Ways and means must be found to avoid adjournments and delays in trials. It should be possible to speed up the provision of human resources to the Tribunals. His delegation urged a reconsideration of the current system whereby 30 per cent of the international staff for the Rwanda Tribunal came from outside Africa.

19. **Ms. Rudzitis-Pinnis** (Latvia) said that her delegation aligned itself with the statement by Portugal on behalf of the European Union.

20. **Mr. Yussuf** (United Republic of Tanzania) said that discussing both Tribunals in one report was confusing; it would be preferable to have a separate report on each.

21. **Mr. Sach** (Director, Programme Planning and Budget Division), in reply to the comments regarding lateness of documentation, said that in the case of document A/54/850 the Secretariat had set up a timetable which would have allowed the document to be issued on time. However, the comments requested from the Presidents of the two Tribunals had not been received by the target date of 25 February, owing to the complexity of the issues being addressed. The comments of the International Tribunal for Rwanda had been received on 20 March and those of the Yugoslavia Tribunal on 3 April. At that point the Secretary-General's comments had had to be incorporated; the report was then sent for translation. The Secretariat had moved as fast as possible, but would attempt to do better with future reports.

22. The other issues raised would be addressed in informal consultations. There was no expectation that all recommendations would be addressed at the current session or at the forthcoming fifty-fifth session. The Advisory Committee had recommended the submission of a report at the fifty-sixth session. A number of actions would be required over the forthcoming 18 months, some of which might require Security Council action to change the statutes.

Agenda item 130: Financing of the activities arising from Security Council resolution 687 (1991) (*continued*)

(a) United Nations Iraq-Kuwait Observation Mission (*continued*) (A/54/709, A/54/736, A/54/841 and Add.3, A/54/869 and A/54/873)

23. **Mr. Woodward** (United Nations Board of Auditors) introduced the report of the Board of Auditors on the special audit of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) (A/54/869) which had been carried out pursuant to the request contained in General Assembly resolution 54/18. The audit had found that 91 per cent of the

overpayment of mission subsistence allowance to 192 civilian international staff members between May 1991 and March 1996 had been recovered, leaving a total outstanding balance of $77,651 as at 31 January 2000. The overpayments had been caused by the Mission's failure to follow instructions from the Department of Peacekeeping Operations and to implement an important recommendation of the Internal Audit Division regarding the application of mission subsistence allowance policies.

24. Roughly two thirds of the mission subsistence allowance paid to 1,425 military observers between May 1991 and September 1996 had been paid before the observers had accrued the entitlement or according to a formula which had differed from the established one. However, those irregularities had not resulted in any final overpayment, since the amounts paid had eventually been earned. The remaining amount had been paid in accordance with the Notes for the Guidance of Military Observers on Assignment which had been in effect at the time of payment. The Board of Auditors had recommended that, in future, the Department of Peacekeeping Operations should ensure that missions complied with established procedures and, in particular, that they did not pay mission subsistence allowance in advance of entitlements.

25. **Mr. Medili** (Director, Field Administration and Logistics Division) introduced the report which the Secretary-General had submitted, pursuant to General Assembly resolution 54/18, on the payment of mission subsistence allowance in UNIKOM (A/54/873). The Secretary-General's previous report on the subject (A/53/1023) had provided an in-depth analysis of all the factors which had affected the administration of the mission subsistence allowance regime in UNIKOM, and had presented detailed information on policies and practices in that area, as applied to military observers and civilian staff. It had concluded that the overpayment of military observers had been considerably overestimated, but had recommended the continuation of recovery action in respect of civilian staff and had noted that those staff had availed themselves of the internal recourse mechanism at their disposal; the process was still ongoing.

26. The comprehensive audit of UNIKOM which the Board of Auditors had undertaken pursuant to General Assembly resolution 54/18 (A/54/869) had largely confirmed the conclusions set out in the Secretary-General's 1999 report (A/53/1023). The current report of the Secretary-General therefore concluded, in respect of civilian staff, that recovery action should continue and the legal recourse mechanism should be allowed to run its course, and, in respect of military observers, that recovery efforts should cease and the amounts already recovered should be reimbursed to the individuals concerned.

27. The situation which had arisen in connection with the payment of mission subsistence allowance in UNIKOM had been largely attributable to the fact that the applicable regime had not been codified in a comprehensive administrative instruction. That had been corrected by the issuance of ST/AI/1997/6 on 20 October 1997. The Secretariat was grateful to the Board of Auditors for having formulated recommendations whose implementation would considerably improve the provision of guidance to administrators and staff in the field and prevent the recurrence of situations similar to the one in UNIKOM.

28. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) recalled that, in September 1999, the Advisory Committee had submitted its report on mission subsistence allowance in UNIKOM (A/54/418) after it had considered the relevant report of the Secretary-General (A/53/1023). The Secretary-General's conclusion that civilian staff had been overpaid but that military observers had earned the payments made to them, even though the procedure followed had been irregular in some cases, had been confirmed by the report of the Board of Auditors (A/54/869). Consequently, the Advisory Committee had no basis to change the views it had expressed in paragraphs 4 and 5 of its 1999 report, to the effect that the Administration's mishandling of the matter had created an unfortunate perception of unfair treatment of the military observers and the staff, and that the General Assembly should take no action pending the outcome of the judiciary process. Once the Advisory Committee had received the text of the judgement of the Administrative Tribunal, it would inform the General Assembly as appropriate.

29. **Mr. Monayair** (Kuwait) said that the report of the Board of Auditors (A/54/869) revealed a number of inconsistencies. The report was also overdue and contained no new information.

30. While the Advisory Committee had recommended that no further action should be taken pending a trial

judgement, General Assembly resolutions must be respected, and the Secretariat must deal seriously with such matters.

31. He commended the clarity and comprehensiveness of the report of the Board of Auditors, and stressed that what had taken place in UNIKOM must serve as a useful lesson for other United Nations missions. The overpayments made to 192 civilian staff members were indicative of administrative negligence and misconduct for which he held the Field Administration and Logistics Division primarily responsible. He would await the final report of the Board of Auditors on the special audit with interest. In view of the extremely large sums involved, he wished to ascertain over what period such overpayments had been made.

The meeting rose at 11.10 a.m.